IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 3RD OCTOBER 2007 / 11TH ASWINA 1929

Bail Appl..No. 5969 of 2007()

CR.NO. 8/07 OF KASARAGOD EXCISE RANGE

PETITIONER/ACCUSED

SUNIL, AGED 29/07, S/O. KUNHIRAMAN,
PARAKATTA DESOM, GUDULU VILLAGE, KASARAGOD.

BY ADV. SRI.T.B.SHAJIMON

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REP. BY
INSPECTOR OF POLICE, KASARAGOD EXCISE RANGE,
REP. BY THE PUBLIC PROSECUTOR, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 03/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 5969 of 2007

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Dated this the 3rd day of October, 2007

O R D E R

Application anticipatory bail. The petitioner faces allegations under the Kerala Abkari Act. He was allegedly found to be in possession of 16 litres of arrack on 17.2.07. He allegedly ran away from the scene of the crime. The seizure mahazar and occurrence report clearly show the name of the petitioner, submits the learned Prosecutor. Investigation is in progress. The petitioner apprehends imminent arrest.

2. Learned counsel for the petitioner submits that the petitioner is absolutely innocent. It is prayed that the petitioner may be granted anticipatory bail.

3. The application is opposed by the learned Prosecutor. All the available indications point to the complicity of the petitioner. There are no features in this case, which would justify the invocation of the extra ordinary equitable discretion under section 438 Cr.P.C. in favour of the petitioner, submits the Prosecutor.

4. I have considered all the relevant inputs. This I am satisfied is a fit case where the petitioner must resort to the ordinary and normal procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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